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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of

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Amendment of Section 2.106 of)	ET Docket No. 95-18
the Commission's Rules to Allocate)	RM-7927
Spectrum at 2 GHz for Use by the)	PP-28
Regarding Multiple Address Systems)	
Mobile-Satellite Service)	

To: The Commission

REPLY COMMENTS

The Burlington Northern and Santa Fe Railway Company ("BNSF") and Norfolk Southern Corporation ("NS") (BNSF and NS jointly the "Railroad Commentors"), by their attorneys and pursuant to Section 1.415 of the Commission's Rules, hereby jointly submit reply comments in the captioned proceeding.^{1/} For their joint reply comments, BNSF and NS state as follows:

The initial comments of the MSS Coalition reflect an intent by the coalition members to avoid all obligations to the spectrum incumbents they seek to displace. The Commission cannot be complicit in that untoward effort.

At the same time they propose an early sunset for their relocation obligations to the FS incumbents,^{2/} the MSS Coalition seeks an extended transition period during which FS incumbents

^{1/} Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, ET Docket No. 95-18, RM-7927, First Report and Order and Further Notice of Proposed Rule Making, FCC 97-93, 62 Fed. Reg. 19509 (April 22, 1997) ("FNPRM").

^{2/} MSS Coalition comments, p. 8.

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would be required to share the 2180-2200 MHz band with MSS operations.^{3/} The Commission cannot allow MSS operators to utilize delay to avoid their relocation obligations to incumbents.^{4/} ^{5/} Instead, the Commission should heed the advice of the vast majority of commentors, who urge that there be no sunset date for the MSS operators' relocation obligations.^{6/}

The MSS Coalition, citing "amortization" and "replacement" schedules, seeks to avoid the obligation to fully compensate BAS and FS incumbents for the cost of relocating the facilities displaced by MSS operations. Again, the Commission must refuse to be implicated in the MSS Coalitions' efforts to shift the financial burden of displacement to those who will be displaced.

BellSouth points out that relocation obligations anticipate that displaced incumbents will be provided with

^{3/} Id., p. 11.

^{4/} The MSS Coalition acknowledges that the feasibility of long-term sharing of the 2180-2200 MHz band has not been determined. MSS Coalition comments, p. 2, fn.5. The MSS Coalition also anticipates that the expansion of MSS operations ultimately will require the relocation of FS incumbents. MSS Coalition comments, p. 14.

^{5/} The American Petroleum Institute ("API") correctly asserts that "If both an incumbent and MSS licensee can co-exist without interference, then there should be no need for an arbitrary deadline by which incumbents would become secondary. Similarly, if both parties cannot co-exist due to interference problems, then an incumbent should be relocated and reimbursed for its facilities, regardless of when that relocation occurs. Otherwise, the Commission will create incentives for MSS licensees to delay service to new areas and to forestall negotiations in subsequent years." API comments, p. 10.

^{6/} E.g., initial comments of API, ALLTEL Communications, Inc. ("Alltel"), California Oregon Broadcasting, Inc. ("COBI"), West Central Illinois Educational Telecommunications Corporation ("Convocom"), and the Affiliated American Railroads ("Affiliated").

facilities that are comparable with respect to "(i) communications throughput, (ii) system reliability, and (iii) operating costs."^{7/} As many other commentors make clear, the "age and value" of the displaced facilities is not relevant when computing relocation obligations.^{8/} Clearly, it is the cost of relocation, not the value of the replaced facilities, which should be the measure of the MSS licensees' relocation obligations.

The majority of commentors have alerted the Commission that, when specifying full compensation for the costs of relocation, the Commission must make clear that those costs include the costs of relocating paired channels, even where those channels are not within the bands into which MSS operations directly intrude.^{9/} As the commentors point out, it is not practical, efficient, or operationally feasible to operate duplexed facilities utilizing widely separated bands.^{10/} As the relocation of paired channels will be necessitated by, and be attendant to, the relocations from frequencies displaced for MSS, the MSS licensees must bear the cost of these necessary and attendant relocations. To do otherwise would be to deprive the incumbents of their rights to comparable facilities.

^{7/} Comments of BellSouth Corporation, p. 8, citing, Plan for Sharing the Costs of Microwave Relocation, 11 FCC Rcd 8825 (1996).

^{8/} E.g., comments of COBI, Affiliated, and Association of Public-Safety Communications Officials - International, Inc. ("APCO").

^{9/} E.g., comments of TIA, API, UTC, APCO, and Affiliated.

^{10/} E.g., comments of TIA and Comsearch.

The Commission should particularly note that the Society of Broadcast Engineers ("SBE") propounds a "one-shot" transition mechanism whereby the relocation of the Broadcast Auxiliary Services ("BAS") to the 2025-2130 MHz band, and the attendant relocation of FS incumbents from the 2110-2130 MHz band, would be effectuated all at once.^{11/} That proposal offers the substantial benefit of virtually simultaneous effectuation of all relocations occasioned by MSS' displacement of BAS. BNSF and NS urge the Commission to give serious consideration to combining SBE's "one-shot" proposal with the proposal in the Railroad Commentors initial comments that (i) all necessary BAS displacement of FS incumbents be identified and specified by a firm cutoff date; (ii) the cost of relocating all identified and specified FS incumbents to comparable facilities be borne by the MSS operators;^{12/} and (iii) all FS incumbent facilities and operations not timely identified and specified for relocation (and not adversely affected by any ensuing relocations) be "grandfathered" and protected from interference from any and all BAS use of the band. In a "one-shot" relocation procedure, FS incumbents would need a pre-financed transition

^{11/} Most commentors recognize the inherent incompatibility of BAS (especially ENG) and FS operations. E.g., comments of COBI, Comsearch, and Telecommunications Industry Association ("TIA").

^{12/} As the identification and specification of certain incumbent FS facilities also may necessitate the reconfiguration or relocation of other incumbent facilities (possibly on a system-wide basis), any adoption and utilization of SBE's proposed "one-shot" procedures (or any variation thereof) also must provide for the compensated reconfiguration and relocation of all components of FS incumbents' systems thereby affected.

period, including time for equipment availability and delivery, in advance of the start-up of BAS operations in the "new band". Therefore, a reasonable time frame for such a transition must be factored into any "one-shot" procedure adopted by the Commission. Properly melded, the proposals of SBE and the Railroad Commentors could provide an efficient and effective mechanism for determining and resolving the displacement of FS facilities for BAS.

Respectfully submitted,

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